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**WILLOUGHBY & HOEFER, P.A.**

ATTORNEYS & COUNSELORS AT LAW

930 RICHLAND STREET

P.O. BOX 8416

COLUMBIA, SOUTH CAROLINA 29202-8416

MITCHELL M. WILLOUGHBY  
JOHN M.S. HOEFER  
ELIZABETH ZECK  
RANDOLPH R. LOWELL  
BENJAMIN P. MUSTIAN  
M. McMULLEN TAYLOR

May 30, 2008

AREA CODE 803  
TELEPHONE 252-3300  
TELECOPIER 256-8062

TRACEY C. GREEN  
SPECIAL COUNSEL

\*ALSO ADMITTED IN TX

**VIA HAND DELIVERY**

Honorable Charles L.A. Terreni  
Chief Clerk/Administrator  
**Public Service Commission  
of South Carolina**  
101 Executive Center Drive  
Columbia, SC 29210

RECEIVED  
2008 MAY 30 PM 2:35  
SOUTH CAROLINA  
PUBLIC SERVICE  
COMMISSION

RE: Proposed Regulations filed April 11, 2008, with  
S.C. Legislative Counsel; Docket No. 2007-445-A

Dear Mr. Terreni:

This firm represents Carolina Water Service, Inc., Utilities Services of South Carolina, Inc., United Utility Companies, Inc., Tega Cay Water Service, Inc., and Southland Utilities, Inc. We have been requested by our clients to submit to the Commission their comments on certain portions of the proposed regulations referenced above, specifically proposed R. 103-514, R.103-714, and 103-859.

Our clients' respectfully offer the following comments:

1. The current requirement of R.103-514.C. and R.103-714.C. that a violation of Commission regulations be reported only when it affects service to customers should be retained. As the Commission is aware, the purpose of the existing regulation is to address the timeliness of a utility's response to an interruption of service to a customer. Cf. 26 S.C. Code Ann. Regs. R.103-514.A. and B. and R. 103-714.A. and B (1976, as amended). If there is no interruption of service (i.e., the customer's service has not been "affected"), then a report of a violation of Commission regulations would create an unnecessary burden on utilities, needlessly increase expenses of utilities (that are ultimately passed through to customers), and create a level of regulation for water and wastewater utilities far beyond that historically imposed by the Commission and far in excess of that imposed by the Commission upon other types of jurisdictional utilities.

2. The current requirement of R.103-514.C. and R.103-714.C. that a violation of Commission regulations affecting service to customers be reported to the Commission should be removed. Basic principles of administrative due process dictate that the Commission, in its role as a neutral and detached decision-maker with respect to disputes among utilities, their customers and the Office of Regulatory Staff (“ORS”) regarding alleged violations of Commission regulations, not be involved in any manner prior to the filing of a complaint by an affected customer or ORS. In addition, this portion of the current regulation is inconsistent, if not in conflict, with S.C. Code Ann. §58-5-270 (2007) which provides, *inter alia*, that individual consumer complaints must first be filed with ORS, which has the responsibility of mediating them before a complaint may be filed with the Commission. Similarly, this portion of the current regulation is inconsistent, if not in conflict, with provisions of 2004 S.C. Act 175, section 4, repealing certain provisions of former S.C. Code Ann. §58-3-190 (1976).

3. The requirement of proposed R.103-514.C. and R.103-714.C. that only a violation of a DHEC regulation resulting in the issuance of a DHEC order be reported by a water or wastewater utility is an improvement upon the current regulation in that it recognizes that an administrative process exists to protect the interest of all concerned parties and that such process should be completed prior to any consideration of an alleged violation of a DHEC regulation by a water or wastewater utility. However, consistent with the comments set forth in paragraphs 1 and 2 of this letter, a report of the issuance of any DHEC order and the steps taken to correct a violation of any DHEC regulation should only be reported when the violation affects (i.e., interrupts) service to customers and then only to ORS. Moreover, the proposed revision should be modified to require that water and wastewater utilities only be required to provide a copy of such a DHEC order to ORS after all administrative and judicial review remedies have been exhausted and the determination of a violation of a DHEC regulation becomes final.

4. Proposed R.103-514.D. and R.103-714.D. appear to be unnecessary given that ORS already possesses statutory authority to require that jurisdictional utilities supply that agency with such information. See S.C. Code Ann. §58-4-55 (Supp. 2007). Illustrative of that is the fact that our clients currently provide ORS with the information called for in these two proposed regulations.

5. The reference in proposed R.103-859 to the involvement of the Commission Staff in disconnection issues is inconsistent, if not in conflict, with provisions of 2004 S.C. Act 175, §4, including the proscription against Commission staff participation as a party in Commission proceedings (S.C. Code Ann. §58-3-60(A)(Supp. 2007) and *ex parte* communications (S.C. Code Ann. §58-3-260(B)(Supp. 2007)).

Hon. Charles L. A. Terreni  
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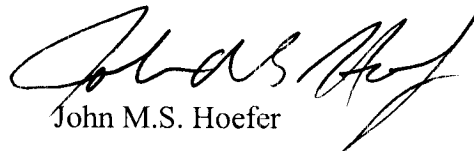
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For the Commission's reference, attached hereto as Exhibit "A" please find the current version of the regulations referred to hereinabove to which our clients propose modifications, which have been marked to show the effect of the foregoing comments. Our clients propose that Exhibit "A" be adopted in lieu of the proposed regulations R.103-514, R.103-714 and R.103-859.

On behalf of our aforementioned clients, we thank the Commission for this opportunity to comment upon the proposed regulations. Please return one of the seven copies of these comments via our courier delivering same. If you have any questions, or need additional information, please do not hesitate to contact me. With best regards, I am

Sincerely,

**WILLOUGHBY & HOEFER, P.A.**



John M.S. Hoefer

JMSH/  
Enclosure

Exhibit "A"

103-514. Interruption of Service/Violation of Rules.

A. Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division thereof, or any single community or an important division of a community, including a statement of the time, duration, and cause of any such interruption. The commission and the ORS should be notified of any interruption lasting more than six hours as soon as it comes to the attention of the utility and a complete report made after restoration of service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers.

C. All Wastewater Utilities under the jurisdiction of the commission shall file with ~~the commission and the~~ ORS in writing a notice of any violation of a PSC or DHEC rules regulation, or of a DHEC regulation resulting in the issuance of a final DHEC order not subject to appeal finding such a violation, which affect the service provided to its customers. This notice shall be filed within ~~24~~twenty-four hours of the time of ~~either~~ (1) the inception of such a the violation of a PSC regulation or (2) the utility's receipt of a DHEC order or order of a reviewing tribunal which makes final a DHEC order finding such a violation of a DHEC regulation, whichever is later, and shall detail the steps to be taken to correct the violation, if ~~the~~ violation is not corrected at time of occurrence. The Company shall notify ~~the commission and the~~ ORS in writing within ~~14~~fourteen calendar days after the violation has been corrected.

103-714. Interruption of Service.

A. Each utility shall keep a record of any condition resulting in any interruption of service affecting its entire system or major division thereof, or any single community or an important division of a community, including a statement of the time, duration, and cause of any such interruption. The commission and the ORS should be notified of any interruption lasting more than six hours as soon as it comes to the attention of the utility and a complete report will be made after restoration of service.

B. Each utility shall make all reasonable efforts to prevent interruptions of service and, when such interruptions occur, shall endeavor to re-establish service with the shortest possible delay consistent with the safety of its consumers and the general public. Scheduled interruptions shall always be preceded by adequate notice to all affected customers, and will be made at a time that will not cause unreasonable inconvenience to customers.

C. All Water Utilities under the jurisdiction of the commission shall file ~~with the commission and with the~~ ORS in writing a notice of any violation of a PSC or DHEC rules regulation, or of a DHEC regulation resulting in the issuance of a final DHEC order not subject to appeal finding such a violation, which affect the service provided to its customers. This notice shall be filed within ~~24~~twenty-four hours of ~~either~~ (1) the time of the inception of ~~the~~such a violation of a PSC regulation or (2) the utility's receipt of a DHEC order or order of a reviewing tribunal which makes final a DHEC order finding such a violation of a DHEC regulation, whichever is later, and shall detail the steps to be taken to correct the violation, if violation is not corrected at time of occurrence. The Company shall notify ~~the commission and the~~ ORS in writing within ~~14~~fourteen calendar days after the violation has been corrected.